

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NANCY K. O'ROURKE,

Plaintiff,

v.

Case No. 13-CV-193 RHS/ACT

**NORTHERN NEW MEXICO COLLEGE,
SUSAN PACHECO and NANCY BARCELO,**

Defendants.

ANSWER

COME NOW the Defendants by and through their counsel of record Basham & Basham P.C. (Mark A. Basham) and answer Plaintiff's Civil Rights Complaint ("Complaint") as follows. Plaintiff is proceeding *pro se* and her Complaint is disjointed. Defendants' Answer will simply follow it as it is presented.

1. Defendants admit the allegations contained in Paragraph 1 of the Complaint.
2. Defendants deny the allegations contained in Paragraph 2 of the Complaint.
3. With respect to Paragraph 3 of the Complaint, the Defendants admit that Susan Pacheco is a citizen of New Mexico. Defendants deny the remaining allegations contained in Paragraph 3 of the Complaint.

B. NATURE OF THE CASE

1. Defendants admit the allegations contained in the first three sentences of the Paragraph on page 2 of the Complaint. Defendants deny the remaining allegations contained in that Paragraph on page 2 of the Complaint.

2. Defendants admit that Nancy Barcelo is a citizen of New Mexico and is employed a President of Northern New Mexico College. Defendants deny the remaining allegation contained in that Paragraph.

3. Defendants deny the allegations contained on page 2C of the Complaint.

C. CAUSE OF ACTION

1. Defendants deny the allegations contained in Paragraph 1 of the Complaint.

2. Defendants deny the allegations contained in Paragraph B)(1) of the Complaint.

3. Defendants deny the allegations contained in page 3A of the Complaint.

4. With respect to page 3B of the Complaint, the Defendants deny all the allegations except for the last sentence.

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Defendants are without sufficient information as to the allegations contained in pages 3C, 3D and 4 of the Complaint and therefore deny them.

2. Defendants deny the allegations contained in Paragraph 2 on page 5 of the Complaint.

E. REQUEST FOR RELIEF

1. Defendants deny the allegations contained in Paragraph 1 on page 5 of the Complaint.

2. Any allegation not specifically admitted is hereby denied.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim for upon which relief may be granted.

2. Plaintiff's Complaint is barred by sovereign immunity.

3. At all times relevant hereto, Defendants actions were reasonable, without malice, proper, legal and within the scope of their lawful duties.

4. Plaintiff has not suffered any detriment or damages as a result of the incidents alleged in the Complaint.

5. Any injury or damages allegedly suffered by the Plaintiff were due to and caused by Plaintiff's own acts and conduct.

6. Plaintiff has failed to allege and cannot prove an official policy or pattern which resulted in the alleged constitutional tort.

7. Defendants are entitled to qualified immunity.

8. Plaintiff's Complaint is barred by the statute of limitations.

9. Plaintiff's claims present no justiciable controversy, as the Plaintiff has suffered no damages.

10. Plaintiff's claims for damages for alleged constitutional rights violations are not actionable because damages are not available for the deprivation of constitutional rights per se but only for the injuries caused by such deprivations. Plaintiff has suffered no injury.

11. Defendants reserve the right to bring such additional affirmative defenses as discovery may reveal.

WHEREFORE, Defendants pray that the Complaint be dismissed with prejudice and that they be awarded their costs and attorney's fees and such further relief as the Court may deem proper.

Respectfully Submitted,

/s/ **Mark A. Basham**

Mark A. Basham
Basham & Basham, P.C.
2205 Miguel Chavez, Suite A
Santa Fe, New Mexico 87505
(505) 988-4575
mbasham@bbpcnm.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer was mailed to Nancy O'Rourke, Pro Se, P.O. Box 22971, Santa Fe, New Mexico 87502, on this 15th day of July, 2013.

/s/ **Mark A. Basham**

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